

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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HIKEEM GREEN,

Plaintiff,

9:18-cv-00703 (BKS/ATB)

v.

DAVID HAIMES, Doctor/Physician for  
Five Points Correctional Facility,

Defendant.

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**Appearances:**

*Plaintiff pro se:*  
Hikeem Green  
13-R-1844  
Washington Correctional Facility  
Box 180  
72 Lock 11 Lane  
Comstock, NY 12821

*For Defendant:*  
Nicholas Luke Zapp, Esq.  
New York State Attorney General's Office  
The Capitol  
Albany, NY 12224

**Hon. Brenda K. Sannes, United States District Judge:**

**MEMORANDUM-DECISION AND ORDER**

Plaintiff Hikeem Green commenced this pro se action under 42 U.S.C. § 1983 asserting claims arising out of his confinement in the custody of the New York State Department of Corrections and Community Supervision. (Dkt. No. 1). On April 5, 2019, Defendants filed a motion to dismiss under Fed. R. Civ. P. 12(b)(6) for failure to state a claim upon which relief may be granted. (Dkt. No. 29). Plaintiff did not file a response to the motion. This matter was assigned to United States Magistrate Judge Andrew T. Baxter who, on May 23, 2019, issued a

Report-Recommendation recommending that Defendant's motion to dismiss be denied. (Dkt. No. 33). Magistrate Judge Baxter advised the parties that, under 28 U.S.C. § 636(b)(1), they had 14 days within which to file written objections to the report and that the failure to object to the report within 14 days would preclude appellate review. (Dkt. No. 33, at 23).

No objections to the Report-Recommendation have been filed. As no objections to the Report-Recommendation have been filed, and the time for filing objections has expired, the Court reviews the Report-Recommendation for clear error. *See Petersen v. Astrue*, 2 F. Supp. 3d 223, 228–29 (N.D.N.Y. 2012); Fed. R. Civ. P. 72(b) advisory committee's note to 1983 amendment. Having reviewed the Report-Recommendation for clear error and found none, the Court adopts the Report-Recommendation in its entirety.

For these reasons, it is

**ORDERED** that the Report-Recommendation (Dkt. No. 33) is **ADOPTED** in its entirety; and it is further

**ORDERED** that Defendant's motion to dismiss (Dkt. No. 29) is **DENIED**; and it is further

**ORDERED** that the Clerk serve a copy of this Order upon the parties in accordance with the Local Rules.

**IT IS SO ORDERED.**

  
Brenda K. Sannes  
Brenda K. Sannes  
U.S. District Judge

Dated: July 2, 2019  
Syracuse, New York